

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 1067 - SB 1424**

February 23, 2023

**SUMMARY OF BILL:** Requires municipal utility systems and municipal electric plants (Municipal Systems) with a charitable program established before January 1, 2021 to begin operating the program on an opt-in basis rather than an opt-out basis, beginning January 1, 2024.

Requires the Comptroller of the Treasury (COT) to enforce the act and prohibit the operation of non-compliant programs.

**FISCAL IMPACT:**

**Increase State Expenditures – \$81,300/FY23-24  
\$78,800/FY24-25 and Subsequent Years**

**Other Fiscal Impact – A precise, recurring decrease to local government revenue cannot be quantified.**

Assumptions:

- Pursuant to Tenn. Code Ann. § 7-34-115(i) and 7-52-103(e):
  - Municipal Systems may accept and distribute excess receipts for bona fide charitable programs, such as a round up program in which utility bills are rounded up to the next dollar and the amount of any excess receipt due to rounding is shown as a separate line on the utility bill;
  - Excess receipts are not considered revenue to the Municipal System and may only be used for charitable, economic development, or community assistance purposes;
  - For a program established on or after January 1, 2021, a Municipal System shall not enroll any customer into the program without the express consent of the customer and must remove any customer from the program who sends an opt-out notice to the utility; and
- The proposed legislation would:
  - Require Municipal Systems with a program established before January 1, 2021 that is operated on an opt-out basis, meaning customers are automatically enrolled in the program, to: (1) begin operating on an opt-in basis and (2) remove any customer from participation unless the customer has provided express consent to being enrolled in the program;

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- Authorize Municipal Systems to send written notice to customers explaining the change in operation and the methods in which a customer may opt-in or opt-out going forward;
- Require each Municipal System that operates such a program to submit an annual report to the COT with an itemized list of the bona fide charitable purposes for which the monies were used, which the COT is required to publish on its website; and
- Authorize a customer of a non-compliant Municipal System to submit a complaint to the COT; and
- Require the COT to enforce the act and prohibit a non-compliant Municipal System from operating the program until it complies.
- It is not expected that Municipal Systems would incur any increase to expenditures relative to changing the operation of program.
- It can be reasonably assumed that Municipal Systems would see a significant, recurring decrease to program revenues due to customers not consenting to opt-in, the extent of which cannot be forecasted.
- Program funds may only be used for charitable, economic development, or community assistance purposes and are not considered regular Municipal System revenue; therefore, the proposed legislation would not have a direct fiscal impact on Municipal System revenues.
- If a Municipal System is currently providing program funds to a local governmental entity (LGE), it can be reasonably assumed that the LGE would experience a recurring decrease to revenue; however, any decrease to local revenue cannot be estimated.
- Additionally, if a program is utilized to assist low-income customers in paying their bills, such customers would experience a decrease in those monies, which in turn could result in a decrease in Municipal Systems' revenues and an increase in delinquent statements.
- It is not known how many Municipal Systems operate a program to subsidize low-income customers, nor how much funding is returned to the Municipal System; therefore, any recurring decrease to local revenue cannot be quantified.
- Lastly, there are state and federal community funds that match the charitable funds donated by Municipal Systems or direct such funds directly to the Municipal System program; the proposed legislation would result in a decrease to program revenues.
- However, it is assumed that the proposed legislation would not have a significant impact on the total amount of charitable funds donated by such entities.
- Municipal Systems will be able to absorb the additional responsibility of submitting an annual report to the COT utilizing existing staff and resources, resulting in no significant impact to local expenditures.
- According to the COT, the department will require one Financial Analyst position to monitor Municipal Systems and enforce the act.
- There will be a total increase in state expenditures of \$81,251 [(\$58,248 salary + \$17,003 benefits + \$3,500 travel and training + \$2,500 equipment) in FY23-24.
- There will be a recurring increase in state expenditures of \$78,751 (\$81,251 - \$2,500 equipment) in FY24-25 and subsequent years.

## **IMPACT TO COMMERCE:**

**Other Commerce Impact – The extent of any decrease to nonprofit revenues cannot be estimated.**

Assumptions:

- Any nonprofit that receives program funds from a Municipal System would likely experience a decrease to revenues, the extent of which cannot be estimated.
- The proposed legislation is not expected to have any significant impact on jobs in the state.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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